

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

OPERATING ENGINEERS LOCAL 324  
FRINGE BENEFIT FUNDS, TRUSTEES OF  
OPERATING ENGINEERS LOCAL 324  
FRINGE BENEFIT FUNDS,

CIVIL CASE NO. 04-40380

HONORABLE PAUL V. GADOLA  
U.S. DISTRICT JUDGE

Plaintiffs,

v.

PAVEMENT MUNCHERS, INC.,  
LISA R. CLAYPOOL, DENNIS R. SMITH,

Defendants.

\_\_\_\_\_ /

**ORDER ACCEPTING REPORT AND RECOMMENDATION**

Before the Court is Plaintiffs' motion for summary judgment against Defendant Pavement Munchers, filed March 9, 2006 and Plaintiffs' motion for summary judgment against Defendants Lisa Claypool and Dennis Smith, filed April 28, 2006. Also before the Court are the report and recommendations of the Honorable Mona K. Majzoub, United States Magistrate Judge with respect to these two motions. The Magistrate Judge's report and recommendations recommend that this Court grant Plaintiffs' motions for summary judgment against Defendant Pavement Munchers and Defendant Lisa Claypool and deny Plaintiffs' motion for summary judgment against Defendant Dennis Smith. The Magistrate Judge served the report and recommendations on all parties on August 2, 2006, and August 9, 2006 respectively. The Magistrate Judge also notified the parties that any objections must be filed within ten days of service. No party has filed objections to the report

and recommendations.

The Court's standard of review for a Magistrate Judge's report and recommendation depends upon whether a party files objections. If a party does not object to the report and recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings." *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Since neither party has filed objections to the report and recommendation, the Court need not conduct a review.

**ACCORDINGLY, IT IS HEREBY ORDERED** that the report and recommendations [docket entry 28 and docket entry 29] are **ACCEPTED** and **ADOPTED** as the opinions of this Court.

**IT IS FURTHER ORDERED** that Plaintiffs' motion for summary judgment against Defendant Pavement Munchers [docket entry 17] is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiffs' motion for summary judgment against Defendants Lisa Claypool and Dennis Smith [docket entry 19] is **GRANTED IN PART AND DENIED IN PART** in as much as summary judgment with respect to Defendant Lisa Claypool is **GRANTED** and summary judgment with respect to Defendant Dennis Smith is **DENIED**.

**SO ORDERED.**

Dated: August 29, 2006

s/Paul V. Gadola  
HONORABLE PAUL V. GADOLA  
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on August 29, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Scott R. Fraim; Jeffrey M. Lesser, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: \_\_\_\_\_.

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager

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